



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

HOUSE BILL NO. 18

MONDAY, FEBRUARY 14, 2005

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to insurance premium surcharges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 91A.080 is amended to read as follows:

2 (1) The legislative body of each city, county, **charter county, consolidated local**
 3 **government,** or urban-county government which elects to impose and collect
 4 license fees or taxes upon insurance companies for the privilege of engaging in the
 5 business of insurance may enact or change its license fee or rate of tax to be
 6 effective July 1 of each year on a prospective basis only and shall file with the
 7 commissioner of insurance at least one hundred (100) days prior to the effective
 8 date, a copy of all ordinances and amendments which impose any such license fee
 9 or tax. No less than eighty-five (85) days prior to the effective date, the
 10 commissioner of insurance shall promptly notify each insurance company engaged
 11 in the business of insurance in the Commonwealth of those city, county, **charter**
 12 **county, consolidated local government,** or urban-county governments which have
 13 elected to impose the license fees or taxes and the current amount of the license fee
 14 or rate of tax.

15 (2) Any license fee or tax imposed by a city, county, **charter county, consolidated local**
 16 **government,** or urban-county government upon an insurance company with respect
 17 to life insurance policies, may be based upon the first year's premiums, and, if so
 18 based, shall be applied to the amount of the premiums actually collected within each
 19 calendar quarter upon the lives of persons residing within the corporate limits of the
 20 city, county, **charter county, consolidated local government,** or urban-county
 21 government.

22 (3) Any license fee or tax imposed by a city, county, **charter county, consolidated local**
 23 **government,** or urban-county government upon any insurance company with
 24 respect to any policy which is not a life insurance policy shall be based upon the
 25 premiums actually collected by the company within each calendar quarter on risks

located within the corporate limits of the city, county, charter county, consolidated local government, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, charter county, consolidated local government, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, charter county, consolidated local government, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

- (4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county charter county, consolidated local government, or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest

1 dollar amount.

2 (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky
3 domiciliary insurer because of the requirements of this section, the commissioner of
4 insurance shall impose an equal tax upon the premiums written in this state by
5 insurers domiciled in the other state.

6 (6) Accounting and reporting procedures for collection and reporting of the fees or
7 taxes and the collection fee herein provided shall be determined by administrative
8 regulations promulgated by the Department of Insurance.

9 (7) (a) Upon written request of the legislative body of any city, county, charter
10 county, consolidated local government, or urban-county government, at the
11 expense of the requesting city, county, charter county, consolidated local
12 government, or urban-county government, which shall be paid in advance by
13 the city, county, charter county, consolidated local government, or urban-
14 county government to the Department of Insurance, the Department of
15 Insurance shall examine, or cause to be examined by contract with qualified
16 auditors, the books or records of the insurance companies or agents subject to
17 the fee or tax to determine whether the fee or tax is being properly collected
18 and remitted, and the findings of the examination shall be reported to the city,
19 county, charter county, consolidated local government, or urban-county
20 government.

21 (b) Willful failure to properly collect and remit the fee or tax imposed by a city,
22 county, charter county, consolidated local government, or urban-county
23 government pursuant to the authority granted by this section shall constitute
24 grounds for the revocation of the license issued to an insurance company or
25 agent under the provisions of KRS Chapter 304.

26 (c) If the Department of Insurance finds that an insurance company has
27 willfully engaged in a pattern of business conduct that fails to properly

1 collect and remit the fee or tax imposed by a city, county, charter county,
 2 consolidated local government, or urban-county government pursuant to
 3 the authority granted by this section, the Department of Insurance may
 4 assess the responsible insurance company an appropriate penalty fee no
 5 greater than ten percent (10%) of the additional license fees or taxes
 6 determined to be owed to the city, county, charter county, consolidated local
 7 government, or urban-county government. The penalty fee shall be collected
 8 by the Department of Insurance and payable to the city, county, charter
 9 county, consolidated local government, or urban-county government owed
 10 the license fee or tax less any administrative costs of the Department of
 11 Insurance in enforcing this section. Any insurance company or agent held
 12 responsible for a penalty fee may request a hearing with the Department of
 13 Insurance to be conducted pursuant to KRS 304.2-310 to 304.2-370
 14 regarding the finding of a willful violation and the subsequent penalty fee.

15 (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall
 16 be due thirty (30) days after the end of each calendar quarter. Annually, by March
 17 31, each insurer shall furnish each city, county, charter county, consolidated local
 18 government, or urban-county government to which the tax or fee is remitted with a
 19 breakdown of all collections in the preceding calendar year for the following
 20 categories of insurance:

- 21 (a) Casualty;
- 22 (b) Automobile;
- 23 (c) Inland marine;
- 24 (d) Fire and allied perils;
- 25 (e) Health; and
- 26 (f) Life.

27 (9) Any insurance company or agent that overpays any license fee or tax to a city,

1 county, charter county, consolidated local government, or urban-county
 2 government shall be refunded the amount overpaid. If it is determined that an
 3 insurance company or agent paid a license fee or tax to a city, county, charter
 4 county, consolidated local government, or urban-county government based upon
 5 premiums collected upon lives or risks which are discovered to be located outside
 6 the legal corporate limits of the city, county, charter county, consolidated local
 7 government, or urban-county government which was paid the license fee or tax,
 8 the insurance company or agent shall be refunded those license fees and taxes
 9 within ninety (90) days of notice to the governmental entity paid. Any license fee

10 or tax not paid on or before the due date shall bear interest at the tax interest rate as
 11 defined in KRS 131.010(6) from the date due until paid. Such interest payable to the
 12 city, county, charter county, consolidated local government, or urban-county
 13 government is separate of penalties provided for in subsection (7) of this section. [
 14 ~~No city, county, or urban-county government may impose any penalties other than~~
 15 ~~those provided for in this subsection.]~~

16 (10) No license fee or tax imposed under this section shall apply to premiums received
 17 on policies of group health insurance provided for state employees under KRS
 18 18A.225.

19 (11) No county may impose the tax authorized by this section upon the premiums
 20 received on policies issued to public service companies which pay ad valorem taxes.

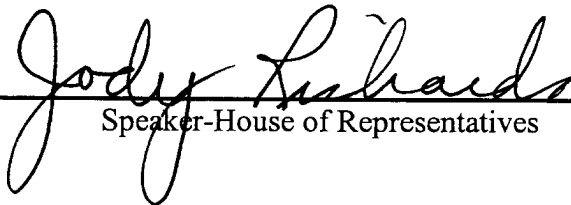
21 (12) (a) Insurance companies which pay license fees or taxes pursuant to this section
 22 shall credit city license fees or taxes against the same license fees or taxes
 23 levied by the county, when the license fees or taxes are levied by the county
 24 on or after July 13, 1990.

25 (b) If a county imposed and collected the license fee or tax authorized by this
 26 section before July 1, 2000, then insurance companies that pay license fees or
 27 taxes under this section shall not credit against the county license fee or tax

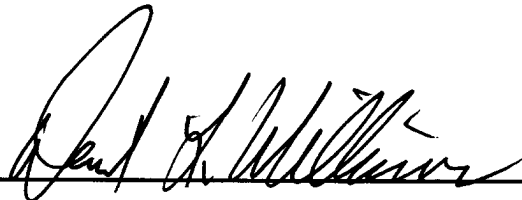
1 that portion of a city license fee or tax that becomes effective for the first time
2 on or after July 1, 2000, or is increased effective on or after July 1, 2000. The
3 provisions of this paragraph shall expire on June 30, 2002, unless extended by
4 the General Assembly.

5 (13) No license fee or tax imposed under this section shall apply to premiums received
6 on health insurance policies issued to individuals nor to policies issued through
7 Kentucky Access created in KRS 304.17B-005.

8 (14) No license fee or tax imposed under this section shall apply to premiums paid to
9 insurers of municipal bonds, leases, or other debt instruments issued by or on behalf
10 of a city, county, charter county government, urban-county government,
11 consolidated local government, special district, nonprofit corporation, or other
12 political subdivision of the Commonwealth. However, this exemption shall not
13 apply if the bonds, leases, or other debt instruments are issued for profit or on behalf
14 of for-profit or private organizations.



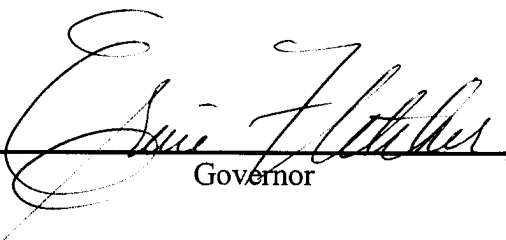
Speaker-House of Representatives



President of the Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 
